

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

VLSI TECHNOLOGY LLC *
*
VS. * CIVIL ACTION NO. W-21-CV-57
*
INTEL CORPORATION * March 2, 2021

BEFORE THE HONORABLE ALAN D ALBRIGHT, JUDGE PRESIDING
JURY TRIAL PROCEEDINGS
VOLUME 7 OF 7

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08:32 1 (March 2, 2021, 8:32 a.m.)

08:32 2 THE BAILIFF: All rise.

08:32 3 THE COURT: Good morning. Thank you. You may be seated.

08:32 4 So tell me what we need to wrap up with exhibits.

08:32 5 MS. PROCTOR: Good morning, Your Honor. We've been going
08:33 6 over the exhibits, and we think we're very close to final
08:33 7 conclusion of everything this morning.

08:33 8 I don't think there are going to be any disputes for you.

08:33 9 I think we've worked them all out. I'll let Intel confirm. We
08:33 10 just have a couple of things we're trying to make sure we have
08:33 11 the correct version in the JERS system, and so we've been going
08:33 12 over those with the Court this morning and we think we can wrap
08:33 13 that up shortly.

08:33 14 There are also a couple where we have a native version
08:33 15 that we plan to submit. But we can submit those electronically
08:33 16 and if they are not available, the moment the jury starts
08:33 17 deliberating, that is okay. And --

08:33 18 THE COURT: Well, let me just say. For Intel, that's okay
08:33 19 as well?

08:33 20 Look, it's y'all's jury. If you want to allow them to
08:33 21 pick a foreperson and, you know, do whatever they do in the
08:34 22 first ten minutes when they're all starting to talk while we
08:34 23 are getting the very final minutes taken care of, they may --
08:34 24 are they here?

08:34 25 DEPUTY CLERK: They voted to start at 8:30.

08:34 1 THE COURT: So, I mean, if you all agree that I can allow
08:34 2 them to pick a foreperson right now and get started, I'm all
08:34 3 for that.

08:34 4 MR. MUELLER: That's fine with us, Your Honor.

08:34 5 MS. PROCTOR: I think that's fine, Your Honor. Maybe
08:34 6 let's wait like two more -- I think the most significant thing
08:34 7 we need to figure out is I think Intel submitted all of their
08:34 8 exhibits in hard copy. And our understanding was that it would
08:34 9 only be a small set of ones that were not available
08:34 10 electronically. So we want to just parse that down to just the
08:34 11 ones that are not available electronically.

08:34 12 THE COURT: Well, what I'm asking is: Can I allow the
08:34 13 jury to do things like pick their foreperson?

08:34 14 MS. PROCTOR: That's fine, Your Honor.

08:34 15 MR. MUELLER: Yes, Your Honor.

08:34 16 THE COURT: Are you okay with Evan going into the jury
08:34 17 room and telling them that they can begin to deliberate?

08:35 18 LAW CLERK: Melissa is in there.

08:35 19 THE COURT: Perfect.

08:35 20 MR. MUELLER: That's fine, Your Honor.

08:35 21 THE COURT: Perfect. So I think what you're telling me is
08:35 22 if I will go in the back and you all continue to work, when I
08:35 23 come back out here, I'll be very happy because you will say
08:35 24 we've resolved everything. And that will be a good thing.

08:35 25 MS. PROCTOR: That is my hope and expectation, Your Honor.

08:35 1 THE COURT: Mr. Mueller, don't ruin my dream.

08:35 2 MR. MUELLER: That's great, Your Honor. Just one note.

08:35 3 We're going to be submitting an exhibit list that has stars

08:35 4 next to exhibits that we think should be under seal. This is

08:35 5 really for the future, not for the jury. But thank you, Your

08:35 6 Honor.

08:35 7 THE COURT: Understood. That's a good idea, though.

08:35 8 MR. MUELLER: Thank you.

08:35 9 THE COURT: Anything else that we need to take up?

08:35 10 MS. PROCTOR: No, Your Honor.

08:35 11 MR. MUELLER: No, Your Honor.

08:35 12 (Recess taken from 8:35 to 8:59.)

08:35 13 THE BAILIFF: All rise.

08:59 14 THE COURT: We have a foreperson. I'll ask Mr. Mann who

08:59 15 he thinks it'll be.

08:59 16 MR. MANN: Our middle lady at the front.

08:59 17 MR. MUELLER: I'm not sure, Your Honor.

08:59 18 THE COURT: Ms. Joanne Garza is the foreperson. The note

08:59 19 is at 8:54 a.m. And they are deliberating.

08:59 20 MR. MUELLER: Thank you, Your Honor.

09:01 21 (Recess taken from 8:59 to 9:08.)

09:23 22 THE COURT: Ladies and gentlemen, we have note No. 2. I

09:24 23 have jury -- it says jury note No. 1. It's actually jury note

09:24 24 No. 2 because the first one was the one for their foreperson

09:24 25 note.

09:24 1 But it says, "Could we see Stolarski's deposition?" And
09:24 2 it's 9:19. And the answer is, "No, you cannot."

09:24 3 So, actually, just so you know exactly what I said, I
09:24 4 said, "No, we cannot provide it to you."

09:24 5 Just so you know, my practice is if they were to come in
09:24 6 and say we are unclear about a very specific word that someone
09:24 7 said -- not the did or didn't -- but if they had some question
09:24 8 where we could fix it by letting them know just from that
09:24 9 sentence what the word was, I might consider doing that.

09:25 10 But I'm never going to allow them to hear one portion of
09:25 11 the evidence, because then the other -- whoever is unhappy
09:25 12 about that will say, well, they need to hear this also and they
09:25 13 need to hear this and hear this...

09:25 14 So I'm not going to say it this time, but in the future I
09:25 15 will say something along the lines of, you have to do the best
09:25 16 you can. Rely on your recollection and do the best that you
09:25 17 can. They are not going to get another shot at any one piece
09:25 18 of evidence.

09:25 19 MR. CHU: Okay.

09:25 20 THE COURT: And to those of you who are here for the 9:30
09:25 21 hearing, that clock doesn't work, so I always have to figure
09:25 22 out what time it is.

09:25 23 If we get notes, we'll have to break and have you all come
09:25 24 in, and I will take up your notes just as soon as I get them.

09:25 25 MR. CHU: Okay.

09:25 1 THE COURT: Thank you for coming back in. We'll take up
09:25 2 the hearing in -- just as soon as I can go and get dressed, and
09:25 3 I'll be right back in.

09:26 4 (Recess taken from 9:25 to 11:15.)

11:15 5 THE COURT: Okay. Do I have someone from each side in
11:15 6 here? I think so.

11:15 7 We have Juror Note No. 2, which doesn't really need to be
11:16 8 addressed by you all. We got Juror Note No. 2, "Computer
11:16 9 logged out, need someone to log back in, please."

11:16 10 We've done that. So that's...

11:16 11 Jury Note No. 3, "Unable to find the counsel's '373 and
11:16 12 '759 patent diagrams."

11:16 13 MR. CHU: I missed the last word.

11:16 14 THE COURT: Diagrams, which I don't know what that means.
11:16 15 Now, it may -- I don't know what it means.

11:16 16 Mr. Mueller, let me start over for you because you weren't
11:16 17 here. There's a juror note that they -- their computer timed
11:16 18 out, we've dealt with that. But this one is -- I don't know
11:16 19 what they mean, "Unable to find the counsel's '373 and '759
11:16 20 patent diagrams."

11:16 21 MR. MUELLER: Probably, I mean, I'm guessing, but the
11:17 22 magnet boards.

11:17 23 THE COURT: My guess is those were demonstratives, right?
11:17 24 And I think I told them early on that we would have
11:17 25 demonstratives and that they would not get them. Didn't I?

11:17 1 MR. MUELLER: Yes.

11:17 2 THE COURT: I typically do, but -- so what I'm going to
11:17 3 state here for them is, ladies and gentlemen of the jury, those
11:17 4 were demonstrative exhibits, therefore, you do not get to have
11:17 5 them in the jury room.

11:17 6 MR. MUELLER: Yeah. I just suggest, Your Honor, if you
11:17 7 might add to that you'll have to rely on your recollection.

11:17 8 THE COURT: Oh, I'm happy to do that. Sure. So let me
11:17 9 write this down and then I'll read it to you.

11:17 10 MR. CHU: Mr. Hattenbach had a thought. It's possible but
11:17 11 unlikely they're referring to the figures and that the Court
11:17 12 might say there are figures.

11:17 13 THE COURT: I'm not going to try and discern what they
11:17 14 mean. I'm going to put this and see if they -- if they are
11:18 15 unhappy with this, we'll get another note.

11:18 16 MR. CHU: Okay.

11:18 17 THE COURT: And we actually have a jury foreperson whose
11:18 18 handwriting is worse than mine.

11:18 19 (Laughter.)

11:18 20 THE COURT: It is true. You'll see.

11:18 21 MR. CHU: She could be admitted to medical school.

11:18 22 THE COURT: For the record I'm going to give them a note
11:19 23 that if they can read, it says, "Ladies and gentlemen, these
11:19 24 documents are demonstrative exhibits and, therefore, are not
11:19 25 provided to the jury. Please do your best to use your own

11:19 1 recollection of what was presented during your deliberations."

11:19 2 MR. CHU: That's fine with us.

11:19 3 MR. MUELLER: And, Your Honor, these documents or other
11:19 4 materials and they may be referring to the boards which were
11:19 5 not documents. I don't know if you can put a --

11:19 6 THE COURT: Okay. I'll put, "These documents or materials
11:20 7 are."

11:20 8 MR. MUELLER: Perfect, Your Honor. Thank you.

11:20 9 MR. CHU: That's fine, Your Honor.

11:20 10 THE COURT: Okay. For those of you who are here on the
11:20 11 other hearing, I'm going to take a five-minute break. A ten --
11:20 12 if you all need a break as well. Let's make it a ten-minute
11:20 13 break, and then we will come back in and we'll hear the final
11:20 14 motion and we'll wrap up by noon. So everyone is -- you are
11:20 15 free to stand or not sit or whatever you need to do. Today is
11:20 16 the 2nd.

11:20 17 Oh, gentlemen, on the Intel case, I probably need to put a
11:20 18 court - a response to the note that says, "Computer's logged
11:20 19 out." I'm going to just put down it's my understanding this
11:20 20 has been taken care of.

11:21 21 MR. MUELLER: Sounds good, Your Honor.

11:21 22 (Recess taken from 11:21 to 12:26.)

12:26 23 THE BAILIFF: All rise.

12:26 24 THE COURT: Thank you. You may be seated. We have a
12:26 25 verdict and the jury is being brought around.

12:28 1 THE BAILIFF: All rise for the jury.

12:28 2 (The jury entered the courtroom at 12:28.)

12:29 3 THE COURT: You may be seated.

12:29 4 Ladies and gentlemen of the jury, it's my understanding

12:29 5 that you have a verdict.

12:29 6 JUROR: Yes, sir.

12:29 7 THE COURT: Okay. Could you pass it to my marshal,

12:29 8 please?

12:29 9 Thank you very much.

12:29 10 I will now read the verdict into the record.

12:29 11 With regard to literal infringement of the '373 patent,

12:29 12 which the question is: Has VLSI proven by a preponderance of

12:29 13 the evidence that Intel has literally infringed the following

12:29 14 asserted claims of the '373 patent?

12:29 15 The answer with respect to Claim 1 is yes.

12:29 16 Claim 5 is yes.

12:29 17 Claim 6 is yes.

12:29 18 Claim 9 is yes.

12:29 19 Claim 11 is yes.

12:29 20 With respect to Question 2: Has VLSI proven by a

12:30 21 preponderance of the evidence that Intel has literally

12:30 22 infringed the following asserted claims of the '759 patent?

12:30 23 With respect to Claim 14, the answer is no.

12:30 24 Claim 17, no.

12:30 25 Claim 18, no.

12:30 1 Claim 24, no.

12:30 2 Question No. 3, which reads: Has VLSI proven by a

12:30 3 preponderance of the evidence that Intel has infringed the

12:30 4 following asserted claims of the '759 patent under the Doctrine

12:30 5 of Equivalents?

12:30 6 '759 patent Claim 14, yes.

12:30 7 Claim 17, yes.

12:30 8 Claim 18, yes.

12:30 9 Claim 24, yes.

12:30 10 They have proceeded to Question 4.

12:30 11 The Question No. 4 is, Answer the following questions:

12:30 12 Has VLSI proven by a preponderance of the evidence that Intel's

12:30 13 infringement was willful?

12:31 14 With respect to the '373 patent, the answer is no.

12:31 15 With respect to the '759 patent, the answer is no.

12:31 16 With respect to the question on validity, Question No. 5:

12:31 17 Has Intel proven by clear and convincing evidence that the

12:31 18 following asserted claims of the '759 patent are invalid and

12:31 19 anticipated by the Yonah processor alone?

12:31 20 With respect to Claim 14, no.

12:31 21 Claim 17, no.

12:31 22 Claim 18, no.

12:31 23 Claim 24 is no.

12:31 24 With respect to damages: What amount -- with respect to

12:31 25 No. 6 for the '373 patent: What is the amount of damages you

12:31 1 find VLSI has proven by a preponderance of the evidence for
12:31 2 Intel's past infringement of the '373 patent?

12:31 3 The answer is \$1,500,000,000.

12:31 4 With respect to Question No. 7: What is the amount of
12:32 5 damages that you find VLSI has proven by a preponderance of the
12:32 6 evidence for Intel's past infringement of the '759 patent?

12:32 7 The answer is \$675 million.

12:32 8 Question No. 8: Is the total amount of damages you found
12:32 9 in Questions 6 and 7 a running royalty in the form of a lump
12:32 10 sum for past damages only or a lump sum for all damages?

12:32 11 The answer is: A lump sum for all damages.

12:32 12 Ladies and gentlemen of the jury -- I believe it's
12:32 13 Ms. Garza; is that correct? Ms. Garza, you are the foreperson?

12:32 14 JURY FOREPERSON: Yes.

12:32 15 THE COURT: I'm now going to ask everyone on the jury who
12:32 16 is in agreement that this is your verdict to please stand.

12:32 17 So I always have this moment where I get choked up. I'll
12:33 18 get through it.

12:33 19 Your work is so incredibly important to our country's
12:33 20 system of justice. And I've told you a number of times how
12:33 21 impressed I was and how proud I was of how hard you all worked
12:33 22 to pay attention. This was not easy stuff, but you all were
12:33 23 here early. You stayed late. You paid attention brilliantly
12:33 24 through the entire thing. And I can't thank you enough for
12:33 25 your service.

12:33 1 I will speak on behalf of the counsel and say thank you on
12:33 2 their behalf as well.

12:33 3 So here is what's going to happen now. You are going to
12:33 4 be dismissed. I want you to go back to where you were
12:34 5 deliberating. I'm going to come back and just talk to you for
12:34 6 just a few minutes to personally thank you for your service.

12:34 7 The lawyers do not get to talk to you after the trial, for
12:34 8 reasons I won't go into here.

12:34 9 But here's the way I feel about you all talking about your
12:34 10 service here today.

12:34 11 On the one hand, you're Americans. You get to talk to
12:34 12 anyone that you want about your service because this is
12:34 13 America. You don't get to talk about the things that were
12:34 14 sealed. We don't want you revealing what was sealed because --
12:34 15 but to the extent you want to talk to anyone about your
12:34 16 service, what happened, all that, you're Americans, you get to
12:34 17 do that. You're Americans. If you don't want to talk, you
12:34 18 don't have to talk. And it's entirely up to you.

12:34 19 The lawyers do not get to contact you and ask you anything
12:35 20 about the case. But again, you're Americans. You know who the
12:35 21 lawyers are, and if you felt it was important to talk to them,
12:35 22 I can't stop you and won't stop you. Not encouraging it, I'm
12:35 23 just saying the direction of the communication has to be
12:35 24 100 percent voluntary on your part. They don't get to contact
12:35 25 you.

12:35 1 But I'm going to come back just because I think it's
12:35 2 important for me to thank you personally for everything that
12:35 3 you've done. But other than that, you now will never hear me
12:35 4 say again: You can't discuss the case amongst yourselves. You
12:35 5 all did a tremendous job in your service to the United States
12:35 6 of America.

12:35 7 Thank you.

12:36 8 THE BAILIFF: All rise.

12:36 9 (Jury exited the courtroom at 12:36.)

12:36 10 THE COURT: You may be seated.

12:36 11 Ladies and gentlemen, counsel, again, I've said this
12:36 12 repeatedly throughout the course of the entire trial process
12:36 13 from the time the case was filed through the hearings that we
12:36 14 had.

12:36 15 Every single time I had an interaction with the lawyers on
12:36 16 this case, I was thankful that the President of the United
12:36 17 States put me in this job because I thought, I'm the luckiest
12:37 18 person on the planet to get to have this position and have
12:37 19 lawyers that far exceed any -- whose skill far exceeded any I
12:37 20 ever had hoped to have as a trial lawyer myself.

12:37 21 So from the very beginning of this through now, I want to
12:37 22 thank you from the very bottom of my heart for the conduct of
12:37 23 counsel throughout this. Your professionalism, your talent,
12:37 24 your quality was exceptional.

12:37 25 Obviously, someone has to win, someone has to lose. I

12:37 1 will -- but winning or losing is, in this case, no reflection
12:37 2 on the exceptional quality of the lawyers, I thought, the
12:37 3 quality of the witnesses who appeared throughout.

12:37 4 And so again thanking you so very much for the time I got
12:37 5 to share with you presiding over this case. It was a
12:38 6 phenomenal five or six days for me. And the great thing for me
12:38 7 is we're all going to be together again soon to do this again.
12:38 8 And I can't tell you how very much I look forward to it.

12:38 9 So you all be safe out there on your way home and --
12:38 10 wherever that may be, west or east, and take the rest of the
12:38 11 day off.

12:38 12 But again, seriously, the lawyering in this case was truly
12:38 13 exceptional and I appreciate it.

12:38 14 THE BAILIFF: All rise.

12:38 15 (Hearing adjourned at 12:38 p.m.)

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1 UNITED STATES DISTRICT COURT)

2 WESTERN DISTRICT OF TEXAS)

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4 I, Kristie M. Davis, Official Court Reporter for the
5 United States District Court, Western District of Texas, do
6 certify that the foregoing is a correct transcript from the
7 record of proceedings in the above-entitled matter.

8 I certify that the transcript fees and format comply with
9 those prescribed by the Court and Judicial Conference of the
10 United States.

11 Certified to by me this 8th day of March 2021.

12

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